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How can we make Europe popular again?

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On 23rd June 2016 the British electorate, consulted by referendum, voted in favour of their country's withdrawal from the European Union. The letter by which the government could declare its intention to leave the EU according to article 50(2) of the Treaty on the EU (TEU)[1] has not yet been notified to Brussels. Contrary to expectation on the part of some media, especially in the UK, the result did not immediately lead to contagion in other EU member States. It has been quite the opposite, as polls undertaken since the referendum have shown some increase in the public opinions attachment to the EU. No Member State is planning to leave the Union either in the short or mid-term. The difficulties that have started to emerge for the government and economic operators in the UK, whilst no one yet knows whether or when the country will leave the Union, is an incentive for the 27 to close rank.

However, in the long term, nobody can deny that Euroscepticism has gained ground almost everywhere. Put simply, many Europeans are not quite as sure as they were before, that the EU is a good thing for their children's future and for their own.

Some correlate this loss of credibility of the EU with the failure to establish a European Constitution in 2005. The aftershock of the rejection of the draft Constitutional Treaty by referendum in France and in the Netherlands is still felt today. The counter-productive effect of this masterpiece of ambiguity was not repaired with the Lisbon Treaty that entered into force at the end of 2009. Trying to make people believe that the EU is building a federal State, while it is actually moving away from that, does increase voters distrust, whatever their opinion.

Because of this, notably, any proposal to modify the Treaties remains today politically unwelcome. The leaders of most member States are still petrified. Public opinions are so defiant that even referendums on non-vital, but pro-European issues, led recently to negative results in Denmark[2] and in the Netherlands[3]. In spite of this, some dare to suggest that, after

the UK's withdrawal, the 27 should negotiate a new treaty to pursue greater integration of the European Union.

IS THIS POSSIBLE?

Europeans value the fact that the continent is in peace, that it is the world's biggest market and, thanks to its common trade policy, the world's number one power in terms of exports and imports. They take this for granted. They are fully aware that the globalized world in which we live is creating challenges that even the biggest of the European States cannot rise to alone: the fight to counter crime and terrorism, the protection of the environment and overcoming climate change, checking major migratory flows, wielding power in trade negotiations on a world scale, etc. This said, Europeans are now suffering from acute problems: massive unemployment in some countries, weak economic growth, badly controlled illegal immigration. They believe that the European Union, although having declared that it has ambitious economic, monetary and immigration goals, has managed the crises in these areas badly and it is not helping to solve them. This is especially why Europe is experiencing a rise in nationalism and populism.

1. See *The Financial Times*, 1st September 2016, Jean-Claude Piris: Article 50 is not forever.
2. Proposal to modify the way to implement a Danish opt-out from the EU normal rules, without deleting it or reducing its scope.
3. Consultation on a draft Agreement signed between the EU and Ukraine.

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WHAT OPTIONS ARE THERE TO CHANGE THIS SITUATION AND FOR EUROPE TO BECOME POPULAR AGAIN?

Option n1: A revision of the Treaties, in order to increase the EU's powers so that it can achieve better its goals, has to be ruled out, in the short and probably in the mid-term.

The Single Market and the common trade policy have been successful, because the member States conferred on the EU the necessary powers to establish and manage them. Given their reticence to share sovereignty on sensitive issues, they did not do the same for both economic and monetary union, or for immigration policy. This imbalance explains that these policies are semi-failures. Indeed it is difficult to reconcile a centralized monetary policy within the euro area, economically heterogeneous, along with decentralized economic, budgetary and banking policies at national level. Likewise, free movement within the Schengen area is not easily compatible with national immigration policies. It is therefore normal that some are pursuing the idea of a significant revision of the Treaties that would grant the EU the powers necessary for the success of these policies.

This option appears however to be politically ruled out for the time being. Many member States refuse to share power in these areas. Moreover, no one has yet found the means to guarantee the democratic legitimacy of the decisions which would be taken after such sharing of sovereignty.

But maintaining the status quo presents some risk. Continuing our route with the European vessel in its current state is dangerous. We are already out on the high sea. Since it is now turbulent, the risk of a shipwreck exists if there were to be a crisis in some member State. Doing nothing and waiting for miraculous respite would be dangerous in the event of a storm. Moreover, going back is hardly a possibility: European policies undertaken in these areas, the euro and Schengen, cannot be given up as they now stand. The only option is to try and repair the ship as far as possible and continue our journey, while trying to keep

everyone on board. The long term future might enable us to make the necessary greater repairs.

Option n2: The transformation of the euro area into a coherent group, a EU's hard core, has now become illusory.

Most economists believe that the institutional and decision making foundations of the euro area should imperatively be strengthened. Only this would enable its long term success, whilst enabling acceptable growth levels for all of those taking part. Its 19 members should share sovereignty in terms of their economic and budgetary policies, complete the banking union, as well as a true capital markets union, together with an appropriate democratic control. Some even add that the 19 members might later partially harmonise other policies, for example on immigration, and/or adopt minimum norms in the areas of social policy and corporate and capital taxation. They would thereby gradually form an EU's hard core, which might then be extended to other member States. This idea notably finds especially support in France, but not only there.

There was possibly a window of opportunity for such a move during the euro area crisis, around 2010. At that time, I suggested^[4] means to move forward along this path. The British government had started to base its policy on this hypothesis. It thought that the euro area had no other option, in order to be successful, than to change the Treaties. In such a case, the euro area would have needed the UK's agreement on that change. The British government had let it be known that it might accept this revision, in exchange for a special status for the UK at the same time.

But the members of the euro area were not politically ready for this adventure at that time. The window of opportunity, if it ever existed, has disappeared. The reason is that there are two serious types of problems. On the one hand, which of the two groups, the wealthiest or the poorest member States, would first accept to be bound by some new obligations, which would reduce the power of decision of their national political institutions? The leaders of the first group tend to protect their electorates and taxpayers by refusing

4. *The Future of Europe: Towards a Two Speed EU?* Cambridge University Press, 2010.

budgetary solidarity with the second group. They fear that this would lead them to filling a bottomless pit. Germany has always stressed that such a path was to be ruled out, as long as the other group of States had not accepted discipline and the necessary sharing of powers. As for the debtor States, they are not ready to commit to this path before their wealthier partners formally commit to solidarity.

On the other hand, both groups of States share another and even more difficult problem: the issue of the political legitimacy of future decisions. What kind of democratically elected and politically accountable bodies would be responsible before the electorate to adopt amongst other things national budgets, the nature and share of taxation, the sum and duration of welfare benefits and retirement pensions?

Actually, the wish to transform the 19 members of the euro area, from the Baltic States to Greece, from Germany to Portugal, or from Finland to Ireland, into a coherent group is illusory, at least in the short term. Their economies, their public debts, fiscal and social policies, their immigration policies, as well as the ambition of their European policies are much too different.

Option n3: The idea to turn back to the six founding States is mistaken and out dated.

Some believe that Germany, Benelux, France and Italy might take the initiative, as they did in the 1950s, and suggest the idea of a federal step forward, hoping to be followed by other members of the euro area.

Apart from the serious division that such a move would entail within the EU and the euro area, the issues faced by the latter, as mentioned above, would apply similarly and to the same degree to the Six. The differences are just as great, for example (but not only), between Germany and Italy, or between Belgium and the Netherlands (Benelux is no longer what it once was!). The populations of the creditor States would refuse budgetary solidarity, while the necessary sharing of sovereignty would not be accepted by the others. The problem of the legitimacy and political accountability of

the decision making authorities before the electorate would be just as difficult to settle as it would be for the whole euro area.

Option n4: A major Franco-German initiative seems unlikely, in the short term at least.

It is true that the Franco-German engine was often behind some initiatives of the past. But the budgetary and economic policies of the two governments are now different. After elections in both countries between May and September 2017, their leaders might possibly decide to suggest the strengthening of links within the euro area. Hence, they might suggest that the 19, or those willing among them, could decide to approximate certain policies, even in a modest way, for example regarding some aspects of their budget, taxation, economy, social, immigration or defence policies.

Given that, according to Article 4 of the TEU, competences not conferred upon the Union in the Treaties remain with the Member States, such an initiative would be legally compatible with the EU Treaties. But it is not certain that it would be welcomed; moreover, it would take some time to be developed into precise proposals.

In that context, what might the European Union do now in view of the informal meeting of Heads of State or government of the 27 that will take place in Bratislava on 16th September 2016?

Suggestions of measures might be considered, at least in two areas in which actions would be urgently welcomed.

Concrete and immediate measures for the euro area:

The think-tank Bruegel recently recommended, in a written contribution^[5], a few actions that are legally possible within the framework of the present EU Treaties:

- avoiding excessive budgetary adjustments in the countries in crisis, by accepting a certain restructuring of the sovereign debt,
- conferring upon the future European Fiscal Board the

5. Agnès Bénassy-Quéré, Xavier Ragot and Guntram B. Wolff: Which Fiscal Union for the Euro Area?, Bruegel Policy Contribution, issue 2016/05, February 2016.

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task of guiding budgetary policies during exceptional periods, good or bad, when budgetary coordination would be necessary,

- asking for more stabilizing national budgetary policies,

- even providing for the creation of a European unemployment (re-)insurance scheme targeted at large asymmetrical shocks. This mechanism would have to be created via an intergovernmental agreement.

Hence these measures, not requiring a revision of the EU Treaties, could be implemented rapidly.

Emergency immigration measures:

This might entail a package of measures, some of which have already been considered:

- transferring human and financial resources to countries on the front line (Greece and Italy),

- organizing a rapid assessment of immigrants on their arrival,

- reforming the Dublin system,

- adopting foreign policy actions regarding countries in the zone ranging from Morocco to Turkey, as well as in certain sub-Saharan African countries,

- linking trade and aid policies to results regarding emigration,

- offering massive financial aid to Jordan, Lebanon and Turkey which are hosting millions of refugees,

- helping Libya and other countries in the fight to counter the organizers of human trafficking,

- at the same time, progressively building an efficient control of the external borders of the EU.

None of these measures require a revision of the EU Treaties.

This would certainly help, but will not be enough to improve the EU's image and regain trust and popularity. The EU's image is now more blurred than ever. Ambiguity cannot lead to a good image, likely to inspire confidence. Of course the EU is constantly developing and cannot be defined in a static manner. But, in order to try and win back citizens' trust, it would appear opportune to tell them what the EU's goals are.

Despite this need, ambiguity and lack of clarity characterize the Union's future, both on the possible

development of its powers and on its future geographical borders.

Regarding competences, will the two concentric circles of the EU continue to develop separately? Regarding the EU per se, might we expect greater cooperation between States, while respecting their national sovereignty under the current Treaties, without any further sharing of competences? Regarding the euro area, might we expect greater integration which will include federal aspects, together with more joint responsibility of national parliaments in the economic and budgetary field?

From a geographic point of view, what will the final limit of the EU's external borders be if not in the distant future, at least within the next ten or fifteen years? Will it be able to welcome Serbia and the other Western Balkan countries, and on what conditions? What about Turkey, Ukraine and other Eastern European States?

The time has come to choose clearly and publicly between:

- on the one hand, a policy of enlargement of the EU which is used as a foreign policy tool by the member States, progressively changing the nature of the EU and transforming it into a classic international organisation, weakening its cohesion and blurring its image for its citizens, and,

- on the other hand, an EU which helps its present members and their populations, strengthens its cohesion and internal solidarity, while at the same time helping external countries, without necessarily promising them membership within the next ten or fifteen years.

HOW CAN OUR POLITICAL LEADERS THINK THAT, WITHOUT GIVING AN ANSWER TO THESE TWO QUESTIONS, EUROPEAN INTEGRATION MIGHT REGAIN IN POPULARITY?

Time has long past when every EU citizen knew the names of all member States. It is difficult to feel part of a united, interdependent family that shares a common future^[6] (demos) without know the names of its members. This is even harder if one continues to speak, on understandable grounds of foreign policy, of the possible accession of an indeterminate number of

6. See the final sentence of the Berlin Declaration adopted by the European Council on 25th March 2007: For we know, Europe is our common future.

other members, while their lack of respect for the rule of law makes daily appearances on the front pages of the media, as well as their obvious lack of support for the basic EU values.

Besides, citizens of EU member States that do not use the euro as their currency and which are not in the Schengen area fear that further sharing of sovereignty might happen which will affect them, either directly or indirectly. As for the citizens who live in the euro area or in the Schengen area, they wonder whether the EU will become a federal State.

Would it be impossible to reassure all citizens, by solemnly stating that the EU does not aim at becoming either a federal State or at undermining national sovereignty? One could explain that, on the contrary, the EU aims at strengthening what is often only apparent sovereignty, by joining forces and thereby allowing a more real and effective sovereignty. Besides, why can we not modestly admit that the EU is far from responsible for everything, and that most policies that have real effects on citizens are the sole responsibility of the member States? Triumphant declarations like the Lisbon Strategy 2000[7] might then be avoided, as well as their negative boomerang effects.

Similarly, when the Treaties are next revised, it might be a good idea to delete some provisions which are not essential, or which are deemed by the member States to fall within their own remit. The fact is that the member States, which are the authors of the EU Treaties, have prohibited the EU to harmonise national legislations in these domains:

- . Employment: articles 145 to 150 of the Treaty on the Functioning of the EU (TFEU); see the prohibition in article 149, second sub-paragraph,
- . Education, vocational training, youth and sport: articles 165 to 167, see the prohibition in article 166(4),
- . Culture: article 167, prohibition in 5,
- . Public Health: part of article 168, prohibition in 4,
- . Industry: article 173, prohibition in 3, first sub-paragraph,
- . Tourism: article 195, prohibition in 2,

- . Civil Protection: article 196, prohibition in 2,
- . Administrative Cooperation: article 197, prohibition in 2.

Such Treaty provisions might be quoted, voluntarily or not, as providing the EU with the power to legislate in these areas, which is incorrect. These provisions add nothing to the possibilities for support and coordination that might be offered by the EU: hence article 2(5) of TFEU, which recalls the prohibition to harmonise the laws of the member States, and article 6.

The EU could help its member States more effectively by focusing on essential issues. It is regarding these issues that the member States have every interest in sharing their sovereignty, which otherwise might be void of real power. It is with regard to some of these issues that they might want to confer legislative powers upon the EU, when action via the Union would strengthen their real sovereignty.

It is true that the condition *sine qua non* remains to find the means to ensure that decisions are subject to effective democratic legitimacy, and that the citizens do feel that this is the case.

CONCLUSION

In conclusion, while exploring ways on how to improve the confidence of the EU citizens and the image they have of the EU, it would seem appropriate to wonder why their view has changed, especially within the founding States, where enthusiasm was once great.

Today's EU has little in common with the European Economic Community established 60 years ago, and which was not fundamentally transformed until the beginning of the 1990s:

- It is no longer a small club of six members, close in many regards and who knew each other well. Its members are now 28 and are heterogeneous.
- The impression has incorrectly been given that the EU has the power to define its own powers, while they only exist if, and to the extent to which they have been defined, to the tiniest detail, by a unanimous decision taken by all member States and ratified by their

7. This Strategy, adopted by the European Council on 24 March 2000, aimed to turn the EU by 2010 into the most competitive, most dynamic knowledge economy in the world, capable of sustainable economic growth together with a quantitative and qualitative improvement in employment and greater social cohesion.

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competent authorities. However, over the years, the Unions competences have been extended, both by the successive Treaties, as well as by their interpretation, to many areas.

- At the same time, in order to avoid any possible encroachment by the EU of its competences, or the conferral of excessive powers to the institutions in general, or to one of them in particular, the member States have created many counter-balances in the Treaties. They have accompanied the list of competences with detailed definitions, limitations, exceptions, derogations and various and sophisticated procedures, thereby making the functioning of the Union so complex that it is incomprehensible.

- After 60 years, the political goals and final geographical borders of the EU have yet to be defined: they remain blurred, which leaves room for lies and exaggeration, like the imminent creation of a European federal State or the rapid accession of Turkey.

The result of this is not surprising: many EU citizens, although supportive of the ideal of bringing the peoples of Europe closer together, are distrustful of an undefined entity, apparently ever expanding, whose complex functioning they do not understand and whose powers, on paper at least, seem to go on forever. They do not know where it is heading. They do not know what its

final composition will be. They often have an incorrect and deformed idea of it. The EU has been described either as being the Promised Land or as the cause of their problems, via the exaggeration of its real powers or of the mistakes it made. One should recognize that member States often give ambitious aims to the EU without granting it the necessary powers and means. Who would believe that since 2004 the Unions real budget per capita has been reduced, while the member States national budgets have continued to increase?

Time has come to provide a clearer image of the Union and of its future, both from the point of view of its geographical limits and of its political aims. It would also be helpful to admit that its means for action are limited by its budgetary resources and by the legal requirements set out by the Treaties. Aims should not be given to the EU without being accompanied by the means necessary for it to succeed. At the same time, these limited means should be focused on vital issues that are really urgent and important for the populations of Europe.

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